

Application No. 09/756,077
Amendment "A" dated September 28, 2005
Reply to Office Action mailed June 15, 2005

REMARKS / ARGUMENTS

The present Amendment is in response to the Office Action mailed June 15, 2005. Claims 1, 6, 9, 22-27, and 36 are amended and claims 28-35 were cancelled. Claims 1-27 and 36-39 remain pending in view of the above amendments.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner's understanding. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Examiner's Interview

Applicant's express their appreciation to the Examiner for conducting an interview with Applicants representative on August 16, 2005. This response includes the substance of the interview.

Election/Restrictions

Applicant acknowledges that claims 28-35 have been cancelled.

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Claim Objections

The Office Action objected to the language "including performing the acts of . . ." and "that includes" in claims 1 and 22. Claims 1 and 22 have been amended to overcome these objections as discussed at the interview.

Rejection Under 35 U.S.C. § 112

The Office Action rejected claims 1-27 and 36-39 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action indicated that the independent claims 1, 6, 22, and 36 recite conditional steps or limitations. The dependent claims 2-5, 7-21, 23-27, and 37-39 incorporate these same conditions. Applicants do not admit that a conditional step or limitation renders the claims indefinite. Nonetheless, the claims have been amended for clarification as discussed at the interview.

In claim 1, for example, "including performing the acts of" and "if it has been determined that the insurance claim is eligible for advance payment" have been deleted from claim 1. Similar amendments have been made to claims 6 and 22. Claim 36 includes both requirements of "if the reply information indicates that the insurance claim is not in condition to be paid" and "if the reply information indicates that the insurance claim is in condition to be paid".

For at least these reasons, the rejections under 35 U.S.C. § 112, second paragraph, of claims 1-27 and 36-39 have been overcome.

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Rejection Under 35 U.S.C. §102

The Office Action rejected claims 1-27 and 36-39 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,208,973 (*Boyer*). Anticipation requires that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As discussed at the interview, the following discussion illustrates that *Boyer* does not anticipate claims 1-27 and 36-39 in that the required claim elements are not found, as set forth in the claims, in *Boyer*.

As discussed at the interview, the teachings of *Boyer* rely on a cobranded card. *Boyer* teaches, for example, that "upon arrival at the healthcare provider's office, the cardholder presents the cobranded payment system access card." See col. 12, lines 20-25. The teachings of *Boyer* further rely on the presence of the card at the point of service. Further, *Boyer* teaches that the claim is adjudicated and that the third party payor is debited by the portion the third party payor is responsible for. See, e.g., col. 3, lines 30-33.

The method of *Boyer* is illustrated, for example, in Figures 3 and 4. The point of service activity (represented by Figure 4) is initiated when the patient provides a card to the healthcare provider. As part of the point of service activity, the claim is adjudicated and a settlement transaction is transmitted to the healthcare provider. See Figure 5, element 214 and col. 14, lines 47-67. The card therefore provides access to a payment system which transfers funds in accordance with the adjudicated settlement transaction whereby the third party payor is debited by the first portion . . ." See col. 3, lines 30-33.

In *Boyer*, the service provided by the healthcare provider is adjudicated and payment is made as discussed above. In one instance, for example, the user receiving the service is charged

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the first portion and the second portion. The first portion is then credited upon adjudication. *See* col. 4, lines 24-27. In another example, the third party payor is debited by the first portion. *See* col. 4, lines 28-36.

Claim 1, in contrast, requires:

transmitting, by the server system, claim information associated with the insurance claim to the payment entity, wherein, upon receiving the claim information, the payment entity advances money to the health care provider prior to the carrier making payment on the insurance claim.

Claim 1 further requires:

transmitting the insurance claim to the carrier, wherein, upon receiving the insurance claim, the carrier makes payment on the insurance claim to the payment entity after adjudicating the insurance claim, thereby paying for the money advanced to the health care provider.

In claim 1, the payment entity advances money prior to the carrier making payment. In contrast, *Boyer* teaches that the third party payor is debited by the first portion owed by the third party payor. *See, e.g.,* col. 3, lines 30-35. In claim 1, the third party payor is not debited as taught by *Boyer*. Rather, the payment entity advances money to the health care provider prior to the carrier making payment. After adjudicating the claim, the carrier makes payment on the insurance claim and pays for the money advanced to the health care provider.

Claim 6 requires "transmitting a fund distribution request from the payment entity to the financial entity prior to the carrier adjudicating the insurance claim" Then, the financial entity distributes credit between an operational account that is accessible to a provider and a reserve account that is not accessible to the provider.

As discussed at the interview, *Boyer* does not teach or suggest that credit be distributed between an operational account that is accessible to the provider and a reserve account that is not

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accessible to the provider. *Boyer* teaches, for example, "transferring funds in accordance with the adjudicated settlement transaction whereby the third party payor is debited by the first portion and the point of service provider is paid the first portion" See col. 4, lines 16-20. Note that the third party payor is not responsible for the second portion, but pays in the first portion in full to the point of service provider; the card is charged the second portion and the provider is paid the second portion. See col. 4, lines 16-20.

This teaching illustrates, in addition to the fact that the third party payor is debited at the point of service, that the transaction is also adjudicated. As a result, *Boyer* does not teach or suggest either transmitting a fund distribution request prior to the carrier adjudicating the claim or distributing the credit between an operational account and a reserve account as required by claim 6.

Claim 22 has been amended to require receiving information . . . indicating that the insurance claim is not in condition for advance payment. Claim 22 then requires revising the insurance claim by amending at least one of a diagnosis code or a treatment code. In contrast, *Boyer* teaches the ability to "interactively adjudicate the claim on-line". See col. 14, lines 9-11. This interactive session, however, does not appear to reflect amending either the diagnosis code or the treatment code because *Boyer* has previously required the user to enter a diagnosis. In *Boyer*, a preliminary diagnosis is used to determine which treatments are covered and to determine which treatment options could be considered. See col. 13, lines 19-28, 42-49.

Further, claim 22 requires that the remote server computer provide said revised insurance claim to a payment entity that issues a fund distribution request to a financial entity prior to a carrier adjudicating the revised insurance claim. As previously discussed, *Boyer* debits the third party payor to pay the health care provider and that the claim is adjudicated.

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For at least the reasons discussed above, claims 1, 6, and 22 are believed to overcome the prior art and are in condition for allowance. The dependent claims 2-5, 7-21, and 23-27 also overcome the art for at least the same reasons. Further, claims 36-39 similarly overcome the cited art for at least the reasons discussed above and are in condition for allowance.

The amendments to claims 1, 6, 22, and 36 are supported, for example, by Figure 1 which illustrates a client system or computer, a server system or computer, a payment entity, a financial organization, a patient eligibility database, and an accepted medical practice database. The specification at page 9, lines 5-22, page 13, lines 5-16, page 25, lines 1-14, and lines 21-22, page 31, lines 1-4, page 32, lines 12-18, and, are examples of support for the amendments.

Conclusion

In view of the foregoing, and consistent with the tentative agreement reached during the Examiner Interview, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 28th day of September 2005.

Respectfully submitted,



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